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Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture

Concluding observations on the second periodic report of Togo

Addendum

Information received from Togo on follow-up to the concluding observations*

[25 November 2013]

1. Further to the consideration on 12 and 13 November 2012 of the second periodic report of the Government of Togo on the implementation of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT/C/TGO/2), the Committee asked the Government of Togo to provide, by 23 November 2013 at the latest, information on the follow-up given to various recommendations (CAT/C/TGO/CO/2, para. 24).

2. Those recommendations were as follows:

(a) Ensure the entry into force of the Criminal Code and the Code of Criminal Procedure;

(b) Urgently improve conditions of detention;

(c) Strengthen and ensure respect for the legal safeguards to which detainees are entitled;

(d) Prosecute and punish perpetrators of acts of torture.

3. It may be noted that the draft Criminal Code, having been adopted by the Council of Ministers, is currently being reviewed in response to new contributions made by a number of human rights organizations. These contributions will be presented to the law commission as amendments and must be approved by the Council of Ministers. The experts will use the opportunity to insert new provisions governing offences linked to the funding of political parties. The National Assembly intends to use the fast-track procedure in order to expedite the entry into force of the Code, since its adoption was delayed by the change of National Assembly.

* The present document is being issued without formal editing.

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4. The Code of Criminal Procedure, on the other hand, is still in the preliminary draft phase. The explanatory memorandum is ready, however, and the preliminary draft will be discussed by the Council of Ministers before the end of the year.

5. With regard to the improvement of conditions of detention, besides the deployment of more prison warders, the Government has developed a project for the construction of prisons in the regional capitals and short-stay prisons in each prefectural capital that has a court. Discussions on the creation of a prison health service are under way. This project is valued at more than 4 billion CFA francs. The thorny issue of prisoners' food has yet to be addressed. With support from the NGOs Prisonniers sans Frontières and the International Committee of the Red Cross, drinking water is now available in prisons. Moreover, a sanitary engineer has been appointed to the largest prison in the country. Sanitation and disinfection operations are being carried out in detention centres, though not perhaps in the sustained manner hoped for by the Government.

6. Regarding legal safeguards, detainees have the right to receive visitors, the right to health, hygiene and the supply of water, in terms of both quality and quantity, and the right to a balanced diet. In addition, detainees are entitled to lodge a complaint before the courts, following a specific procedure, on the grounds of torture or ill-treatment. While the latter category of rights is clearly provided for in the preliminary draft Code of Criminal Procedure, the former will be part of the above-mentioned improvement of conditions of detention.

7. Rights relating to the separation of detainees according to age and sex are respected; thanks to the recruitment of new prison warders of both sexes, female detainees are now supervised by female warders.

8. Regarding detentions, the rate of pretrial detention decreased from 80 per cent in 2012 to 69 per cent in 2013 and efforts are continuing with the support of the United Nations Development Programme, which this year has funded the clearing of a number of criminal cases by the NGO Prison Délices. The objective is to fulfil the right of detained persons to be brought to trial without undue delay.

9. All detainees enjoy the right to receive visitors, and hundreds of citizens visit persons deprived of their liberty unhindered every day.

10. The prohibition of torture and ill-treatment is enshrined in the Constitution. The deployment of new warders who are trained in human rights and the rights of persons deprived of their liberty is in response to that prohibition.

11. Lastly, with regard to the prosecution and punishment of perpetrators of acts of torture and ill-treatment, it should be pointed out that administrative sanctions have been imposed and that the Director of the National Intelligence Agency (ANR) has been dismissed and transferred back to the National Gendarmerie. It is difficult at present to initiate legal proceedings against such perpetrators by invoking the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, insofar as no sanction can be imposed against them in the absence of a prescribed penalty. It would make no sense to initiate proceedings against persons in the knowledge that no penalty can be imposed against them. It might be possible to prosecute them for wilful violence, although wilful violence does not in fact reflect the gravity of acts of torture. In order to meet the added requirement for compensation contained in the Convention, the Government has acknowledged the decision of the Court of Justice of the Economic Community of West African States that has ordered the State to compensate victims of ill-treatment for harm suffered.

12. The Government of Togo would like to take this opportunity to reaffirm its willingness to cooperate with the Committee against Torture and to send it further information as soon as the Codes have been adopted.